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TAGS: [IO](#) [KIPR](#) [WIPO](#)

SUBJECT: WIPO GENERAL ASSEMBLIES 2005 - BETTER THAN
EXPECTED OUTCOME

1. Summary: The meetings of the Assemblies of Member States of the World Intellectual Property Organization (WIPO), held in Geneva from September 26 to October 5, 2005, ended with better-than-expected results. Member States strengthened accountability and oversight within the organization, thus advancing U.S. goals for UN reform. The Assemblies also established a constructive framework in which to assess how to further integrate a development dimension in WIPO's work to advance the Millennium Development Goals. Finally, in decisions on a future broadcasting treaty and a work program for the Standing Committee on Patents, Member States affirmed their commitment to further progress in WIPO's core competencies. Highlights on important agenda items are provided below. End Summary.

Budget

2. The Assembly adopted a balanced, results-based budget for the first time in several years. The budget includes no fee increases and no change in member contributions. The budget includes funds to proceed with the acquisition of a commercial loan for 114 million Swiss francs for the construction of a new building adjacent to the current property and for the engagement of an external management firm to direct the project. This was deemed necessary due to the problems experienced during the remodeling of the former WMO building that led to a doubling of the cost. The rate of staff growth was also slowed, with just 10 new permanent positions being added in each year in the 2006-2007 biennium. Following a desk-to-desk review of the organization adjustments to the budget may be sought in 2006. The Assembly affirmed that adjustments could also be made to reflect any program decisions that result from discussions of development issues.

Reform/Oversight

3. Reflecting the resolve for UN reform expressed at the 2005 UN World Summit, member states took two decisions to strengthen accountability and oversight and improve internal management and transparency at WIPO: adopting an Internal Audit Charter and approving the creation of an Audit Committee. The Audit Committee (composed of seven member state representatives and two representatives with audit experience) will have major oversight powers and responsibilities and will oversee construction of the new building and the desk-to-desk audit recommended by the UN Joint Inspection Unit (JIU). Other JIU recommendations to improve good governance and member state oversight of WIPO included discontinuing direct recruitment and personal promotions, limiting the Director General's ability to transfer funds between programs and hiring external management for the construction project.

4. A debate ensued when the EU, the U.S., the Eastern European countries, among others, supported amending the proposed decision to merely "note" the JIU's report and instead require the Director General to take immediate action on the JIU recommendations. Unfortunately, opposition by Middle Eastern and African countries resulted in a weakened text to refer such recommendations to the Program and Budget Committee. This effectively delayed their implementation a full year, since they would need to be approved by the 2006 General Assemblies. The U.S. made clear in its intervention following that item that, despite this, we expect concrete actions in the coming year. The Assembly amended the Staff regulations to require disclosure of activities that represent a conflict of interest for employees and strengthen financial disclosure requirements, thus establishing a stronger ethics standard for staff. The Deputy Director General announced that WIPO had engaged independent auditors selected by the Swiss government to fully investigate the allegations of fraud and mismanagement that had surfaced during the last year. (Mission comment: we learned after the meeting that the Geneva office of Ernst & Young is conducting the investigation. End comment.)

Broadcasters Treaty

15. After lengthy wrangling, the General Assembly adopted language providing for the convening of a Diplomatic Conference on the Protection of the Rights of Broadcasting Organizations. The provision calls for two meetings of the Standing Committee on Copyright and Related Rights (SCCR) to be held before the next General Assembly. The purpose of these meetings is to aim to agree, and to finalize a draft treaty so that the 2006 General Assembly can convene a Diplomatic Conference in December 2006 or at an appropriate time in 2007. The U.S. believes that this language reflects the broad consensus among developed and the vast majority of developing countries in the General Assembly that the convening of a Diplomatic Conference is appropriate and timely. Although discussions at the two SCCRs will focus on the second revised consolidated text (SCCR/12/2 Rev.2) and the working paper on webcasting (SCCR/12/5 Prov.), in introducing this provision in the Plenary Session, the Chairman made it clear that this procedure followed normal WIPO procedures and did not preclude members from making proposals to modify the present Chairman's Second revised Consolidated text or the working paper. The two SCCR Meetings will provide an effective means to finalize a text so that the 2006 General Assembly will be able to fulfill its mandate to convene a Diplomatic Conference.

Genetic Resources, Traditional Knowledge and Folklore (IGC)

16. With very little discussion, the WIPO General Assembly decided to extend the current mandate of the IGC for the 2006-2007 biennium. This mandate is sufficiently broad so that no outcome is excluded, including the possible development of an international instrument or instruments. Considerable progress has been made in IGC discussions on these issues. The U.S., however, believes that there cannot be a one-size-fits-all approach to the protection of genetic resources, traditional knowledge and folklore. While policy objectives and core principals may form the basis of some type of instrument(s) in the future (e.g., guidelines, recommendations, etc.), the U.S. underscored that it is still premature to consider treaty language at this time.

IP and Development

17. After considerable discussion and informal consultations, the General Assembly decided to enhance the development dimension in WIPO's work by establishing a provisional committee to accelerate and complete discussions on proposals relating to a WIPO development agenda. This provisional committee, which will effectively replace the Permanent Committee on Cooperation for Development Relating to Intellectual Property (PCIPD) during its existence, will meet in 2 one-week sessions and report to the 2006 General Assembly with recommendations, if any. This decision will help WIPO members continue discussions on IP and development, launched at the 2005 General Assembly by a proposal of Brazil and Argentina, in a more structured and effective manner. By having one-week sessions, rather than 3-day meetings, the provisional committee is more likely to attract the participation of capitol-based experts who can engage in an in-depth, factual examination of all proposals that have emerged to date. Furthermore, the General Assembly decision imposes a deadline for new proposals as the first day of the first session of the provisional committee. This will ensure that these discussions will not be dragged on interminably, but rather will focus on a finite number of proposals before it. The work of the provisional committee will not prejudice the provision of WIPO technical assistance or the activities of other WIPO bodies in discussing matters relevant to development.

Substantive Patent Law Harmonization

18. After extended discussion and informal consultations, the General Assembly decided upon a process designed to move discussions on substantive patent law harmonization forward. The decision provides that:

--An informal open forum will be held in the first quarter of 2006 on all issues that have been raised in the draft of the SPLT or that Member States wish to include in the draft SPLT. The forum will be of three-days duration. The various issues will be discussed with contributions from speakers reflecting a balance of geographical representation and perspectives, and technical expertise. Member States may submit proposals for issues and speakers for the forum until November 15, 2005. The Chair of the WIPO General Assembly will conduct consultations on the draft program with all

interested Member States. The Director General will publish the final program in January 2006.

--A three-day informal session of the SCP will be held soon after in Geneva to agree on a work program for the next session of the SCP, taking into account the discussions of the open forum. WIPO will, in the measure possible, provide financial assistance to facilitate the participation of developing countries.

--A five-day ordinary session of the SCP will be held to commence work on the work program of the SCP agreed at the informal session of the SCP.

--WIPO General Assembly in September 2006 will consider the progress made with a view to determining a work plan for the following year.

Further Information

[19](#). All of the documents prepared by the Secretariat for the 2005 WIPO Assemblies meetings are available on the website of WIPO at www.wipo.int. The final reports of these meetings should be posted there soon. For further information, please contact Candy Green, Acting Director of the Office of Intellectual Property Enforcement (EB/TPP/IPE) at (202) 647-3985 or by email at greenc@state.gov.
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